

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK
UNITED STATES OF AMERICA,

v.

A.J. ATKINS,

04-CR-268-A

Defendant.

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE, that upon the sealed affidavit filed herewith, the undersigned moves this Court at Part II, United States Courthouse, Buffalo, New York, for a downward departure from the Sentencing Guidelines range and mandatory minimum term of imprisonment otherwise applicable to the defendant in order to reflect his substantial assistance in the investigation and prosecution of other persons who have committed offenses pursuant

to Sentencing Guidelines §5K1.1 and Title 18, United States Code,
Section 3553(e).

DATED: Buffalo, New York, March 22, 2005.

Respectfully submitted,

MICHAEL A. BATTLE
United States Attorney

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TO: Marianne Mariano, AFD
United States Probation Department

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CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2005, I electronically filed the foregoing **NOTICE OF MOTION AND MOTION** with the Clerk of the District Court using its CM/ECF system which would then electronically notify the following CM/ECF participants on this case:

Marianne Mariano
Assistant Federal Public Defender
300 Pearl Street, Suite 450
Buffalo, New York 14202

United States Probation & Parole
68 Court Street, Room 234
Buffalo, New York 14202

s/KAREN S. BARONE